

75-5-316 Expedited guardianship proceedings.

- (1)
 - (a) With regard to persons who are residents of the Utah State Developmental Center, the expedited process provided by this section may be applied to obtain a limited guardianship.
 - (b) For purposes of this section:
 - (i) "Limited guardianship" means a guardianship solely for the purpose of granting consent for medical care and for participation in approval of the ward's individualized program plan.
 - (ii) "Ward" means a resident of the Utah State Developmental Center who is the subject of guardianship proceedings under this section.
- (2) Any person interested in the incapacitated person's welfare may file a petition for a finding of incapacity and appointment of a guardian. That person may seek the limited guardianship pro se, using the forms described in this section. Any fee for filing a petition for a limited guardianship shall be waived if the guardian is proceeding under this section.
- (3) Upon filing a petition for limited guardianship under this section, the court shall set a date for hearing.
- (4) The ward has the right to be present at the hearing and to see and hear all evidence relating to his condition.
- (5) At that hearing the court shall review the affidavit of the superintendent of the Utah State Developmental Center, described in Subsection (11), and determine whether notice has been given to the appropriate persons described in Subsection (6).
- (6) If the proposed guardian is not a parent or relative of the ward, personal notice shall be given to the ward's spouse, parents, and any adult children of the ward. Personal notice shall also be given to other persons as the court may direct.
- (7) The court may, in its discretion, appoint a guardian ad litem to represent the ward in the hearing, and may request independent evaluation by a physician appointed by the court. The physician shall submit his findings to the court in writing.
- (8) The court may grant the petition for a limited guardianship and sign the Order of Appointment if the court finds that:
 - (a) the appropriate parties have been given notice;
 - (b) the ward is incapacitated, based on the affidavit of the superintendent of the Utah State Developmental Center and any affidavit or testimony of persons entitled to receive notice or requested to present evidence under this section; and
 - (c) it is necessary and desirable to establish the guardianship.
- (9) Venue for these expedited guardianship proceedings shall be the same as that described in Section 75-5-302.
- (10) A petition for a limited guardianship shall include the following information:
 - (a) the interest of the petitioner;
 - (b) the name, age, residence, and address of the ward;
 - (c) verification that the ward is a resident of the Utah State Developmental Center;
 - (d) the name and address of the nearest relative of the ward; and
 - (e) the reason for appointment of guardianship.
- (11) The petitioner shall also provide the court with an affidavit of the superintendent of the Utah State Developmental Center that includes the following information:
 - (a) that the ward is a resident of the Utah State Developmental Center;
 - (b) the date the ward was originally admitted to the Utah State Developmental Center;
 - (c) the diagnosis of the ward, including a description of the ward's disabling condition, the level of the ward's intellectual disability, and any medical or physical conditions of the ward;

- (d) that the Utah State Developmental Center is certified as an intermediate care facility for people with an intellectual disability;
 - (e) that because of that certification, the Utah State Developmental Center receives financial participation from the United States Government for its operation and maintenance costs; and
 - (f) that federal regulations under Title XIX require the ward to have a guardian appointed for the sole purpose of giving consent for medical and dental care and of participation in and approval of the ward's individual program plan.
- (12) If the court finds that, under the requirements of this section the proposed limited guardian should be appointed, it shall enter an order establishing that limited guardianship in substantially the following form:
- The court finds that:
- (a) appointment of a limited guardianship for (named ward) is necessary and desirable as a means of providing continuing care and supervision and to ensure his welfare;
 - (b) the ward is incapacitated;
 - (c)(named guardian) is appointed as the limited guardian of (named ward); and
 - (d) the guardianship is a limited guardianship solely for the purpose of:
 - (i) granting permission for medical and dental care on behalf of the ward; and
 - (ii) participation in the development and approval of the ward's individual program plan.
- (13) Appointment of guardianship under this section places no additional responsibility or liability on the guardian with regard to the ward. The limited guardianship is solely for consent for medical care and approval of the ward's individualized program plan, and shall not be construed to increase or create liability or responsibility for the guardian.

Amended by Chapter 366, 2011 General Session